



UTAH ASSOCIATION OF REALTORS®

The Voice for Real Estate in Utah

5710 South Green Street

Murray, Utah 84123

801/268-4747

800/594-8933

FAX 801/268-4778

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K. Dane Snowden
Chief, Consumer & Governmental Affairs Bureau
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Chief Snowden,

For the past four General Legislative Sessions in Utah, our legislators have examined the issue of telemarketing and proposed do-not-call lists. During the 2003 General Legislative Session, the Utah Legislature enacted a state do-not-call list which is operated by Utah's Consumer Protection Division. Although the legislature passed this new law, they took great efforts to carefully craft the statute to meet the needs and requests of Utah citizens. Utah citizens made two major requests: 1) allow us to opt-out of receiving calls from mass-telemarketers, and 2) allow us to continue to receive calls from small business, namely, those who hold state-issued licenses.

The new FCC rules, which supercede Utah's own laws governing its own citizens, offend the letter and spirit of what our citizens asked for and what our Utah legislators enacted. Such inconsistencies between the federal law and the Utah state law are entirely inappropriate.

The Utah Legislature determined that professional telemarketing firms, not small businesses, were the root of consumer complaints. Therefore, in enacting state legislation, Utah targeted professional telemarketing practices and exempted small businesses such as real estate licensees. The FCC rule ignores this distinction.

The Utah Legislature also determined that consumers already have adequate protection from unscrupulous telemarketers in the case of state-licensed professionals. Namely, real estate and other licensees already have a host of laws governing their advertising and marketing behavior, and therefore, additional regulation is not necessary. The FCC rules do not take state licensing laws and the protection they afford the consumer into proper consideration.

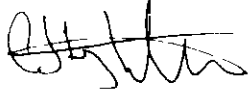
The Utah Legislature also determined that consumers, by enrolling on the state do-not-call list, did not expect nor want to exclude calls from their local, small businesses. Therefore, real estate licensees and other similar professionals were excluded from the law. The FCC rule has the potential to mislead consumers who do not realize that their participation excludes calls beyond those generated by professional telemarketers.

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Finally, the Utah Legislature realized that small businesses, such as real estate brokerages, should not be burdened with the cost associated with complying with the do-not-call list. In fact, compliance with the do-not-call requirements would be practically impossible for those businesses which work primarily on the phone and from their vehicles. Therefore, the Legislature declined to extend the onerous and expensive requirements of the state do-not-call legislation to real estate licensees.

Our citizens have been heard by our Utah Legislature, whereas they have never been heard by the FCC policymakers. The new FCC rules, which supercede Utah's law, are inconsistent with the will of our citizenry and are therefore inappropriate. As such, the Utah Association of REALTORS® respectfully requests that the FCC rule be amended to allow the Utah law to control Utah citizens making calls within Utah.

Respectfully yours,

A handwritten signature in black ink, appearing to read "C. Kyler", with a stylized flourish at the end.

Christopher J. Kyler
General Counsel, Utah Association of REALTORS®